

Immigration Dynamics in Team Decision-Making Meetings (TDM) - Peer to Peer Discussion

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ATTENDANCE: 24, with representatives from San Diego, Orange, Alameda, Fresno, Salinas, Monterey, Santa Cruz, Los Angeles, Ventura, San Francisco, Contra Costa, Solano, Kern, and San Luis Obispo and a former foster youth from San Bernardino. The majority of the attendees were practioners who are dealing with this issue on a daily basis.

NOTES

Introduction

Ken Borelli gave his background of working on immigration issues, including developing the Special Immigrant Juvenile Status (SIJS) legislation during his tenure at the Santa Clara County Department of Family and Children's Services. Sally Kinoshita, immigration attorney with Immigrant Legal resource Center, assisted with questions during the workshop and helped illustrate the effectiveness of having both child welfare and immigration experts on these issues. Yali Lincroft briefly discussed her role as the co-author of a report on immigrants in the child welfare system for the Annie E Casey Foundation, http://www.aecf.org/publications/data/immigration_final.pdf. A sign-up sheet was passed out to gather the email addresses of all attendees so they can receive a copy of notes from this workshop, as well as join Yali's informal listserv focused on immigrants in the child welfare system.

The goal of this workshop is to sort out key issues for working with immigration families in child welfare and discuss the techniques and process of integrating immigration concerns with family dynamics. The importance of resources and support to families as prevention strategy so that child welfare problems can be solved at the lowest level of intervention was stressed throughout the workshop. Ken discussed the need for counties to develop best practice guidelines when immigration issues show up in TDM. Ken passed out the Immigration and Practice Guidebook developed by Santa Clara County, <http://www.f2f.ca.gov/res/ImmigrationGuidebook.pdf>.

Ken identified key issues and topics that emerged from the discussion regarding who at the child welfare agency was responsible for different tasks, how to develop resources to respond to needs, and tools/training needed to assist staff.

Issues/Topics:

- Empathy and Trust
- Lifescan and Photo ID
- Immigration Strategies
- Arrest and Deportation

- Moral Turpitude¹/Public Charge
- Decision Tree for Cases
- Gap from issue identification to resolution
- Community Contact
- Immigration Liaison position/Immigration Specialist
- Protocol for Working with Foreign Consulates

One of the best ways to understand immigrant issues in child welfare is to review some of the more common scenarios that social workers and child welfare agencies encounter. Ken developed three scenarios and there was a discussion with question and answer after each scenario. The following are highlights from the discussion.

SCENARIO ONE:

1a. You are in a TDM with a large extended family. The family is from the US, American Samoa and Western Samoa. The key goal of the TDM is to recommend a relative placement in the home of the maternal aunt. The TDM has gone very well until the issue of placement and family resources comes up. When the facilitator and social worker inquired about the possibility of the maternal aunt as a placement option, they were met with silence and limited participation. You suspect it is because of the household composition and immigration status. How would you bring up the issues relevant to immigration?

- A nurse from a public hospital shared that this scenario occurs almost daily in her work. If the family finds the provider to be open and shows empathy, they will offer information about their immigration status but the family must feel there is trust with the provider.

1b. Outline the steps you or your agency have developed to assist immigrant families with the "out of home placement" licensing process.

- A very relevant discussion emerged, highlighting gaps in services, practice needs, and support for child welfare staff.
- Contra Costa County has begun developing a policy document, after attending a Family-to-Family workshop on immigration issue. Resources are offered to assist families in meeting licensing requirements (i.e. authorize purchase of beds and furniture, etc.)
- One county shared that their recruitment material says it is not necessary to be a US citizen to become a foster parent. However, many families are concerned about sharing information because of fear of public charge.
- Lifescan doesn't come up if you are an undocumented immigrant but you do need an ID to do Lifescan (i.e. passport, DMV, alien registration card are the three documents which can be used for Lifescan). Most county offices have Lifescan in their office so clients do not need to go to the police department. The biggest problem has been clients with no photo ID. Providing documentation for residency can also be an issue (i.e. need PG&E or other mail which shows residency). All adults 18 and older must

¹ Moral turpitude is a legal term for "conduct that is inherently based, vile, or depraved, and contrary to the accepted rules of morality and the duties between persons or to society in general." Crimes of moral turpitude can lead to deportation.

have TB test and fingerprinting. Many households have undocumented family members living with them and fear fingerprinting.

- Ken discussed the issue of an adult who has a criminal record in the household and how this may affect immigration status (i.e. moral turpitude) and deportation. While older criminal convictions may not necessarily get them into trouble, new convictions, even for minor offenses, may get them deported. There is a lot of fear on what is the family's vulnerability for the intervention.
- There is a need to have open discussions with the family about their immigration status early in the case and an early TDM can be pivotal. There is a lot of strategic planning with the entire family that can occur if the TDM is before removal.
- The group shared at what point in a case timeline TDMs were usually conducted in their county: at eminent risk of removal, placement.
- Ken used a Samoan family in the scenario in order to show the need to understand different immigration categories. American Samoa is national, Puerto Rican are U.S. Citizens by birth, and Western Samoa is an independent country. It's important to understand the effect of different country of origin and it's historical relationship with the United States (i.e. Phillipines, Mexico, Canada, etc).
- A participant shared a recent case where the parents were arrested in a drug raid and the children were placed in custody. Depending on the case, their county will either place the children with relatives, foster parents, or reunify the children with relatives in Mexico.
- There is usually someone in the family who has legal residence who can assist the family so it is important this information is obtained and shared in the TDM. Most undocumented immigrants believe that they are going to get amnesty so they don't want to jeopardize this with being stuck in the child welfare system.
- Social workers are concerned about documenting immigration status in the child welfare records because they do not know who will have access to this information and if they are jeopardizing the immigration status of the family by recording this information.
- Ken asked if counties have a suggested timeline for a TDM involving immigration. When Ken was working in Santa Clara County, they estimate these TDMs will take up to 2 hours and have built that into written protocols.
- Ken discussed the need for counties to be aware of SIJS (Special Immigrant Juvenile Status). SIJS can be seen as a failure since it is only used when there is no hope of reunification with the family and the dependency petition is asking for termination of parental rights.
- Ken discussed the legal definition of moral turpitude and crimes involving moral turpitude (i.e. such as child abuse charges which have deportability charge but only if you get a conviction). Ken also discussed the issue of public charge and the fears immigrants have of receiving any public benefits. Most immigrants have limited access to benefits, which are means tested income. Foster care payment is not considered public charge since the payment is technically for the foster parents to use

for the children (i.e. Medicaid, food stamp). It's a complicated issue and not all immigrants are aware of the difference.

- Ken asked how many counties have protocols with foreign consulates. He was aware of the protocols with the Mexican Consulates from Santa Clara, Ventura, San Francisco, and Orange. San Francisco has begun protocols with Central American consulates, including Guatemala and El Salvador.
- In cases where the parent(s) are deported to Mexico but child is born in US, does the child go back to Mexico? It depends on the individual case and legal representation since the child's attorney may feel it is the best interest of the child that they should stay in US with relatives or go back to Mexico with the parent.
- In a Southern CA county, the Mexican consulate has a representative attend the TDM if the child is a Mexican national. In a Northern CA county, a designated appointee from the region, not consulate members, attend the TDM.
- In a rural CA county, there was a drug raid and an infant was taken in. The social worker worked directly with the Mexico Consulate to see what options were available to help the family. The TDM was held at juvenile hall since the mother was a minor and the father was 19 years old. The mother wanted the infant to go to Mexico with her grandmother. The social worker was fearful if she filed a petition and had to wait for DIF to do the home evaluation and received a positive home evaluation from DIF, that dependency court wouldn't let the infant go back. The voluntary placement from the mother took them an amazing four (4) days only – it used to take them months and months. Using all county funds, the social worker was able to go to Mexico and bring the infant to the grandmother. Having a liaison with the Mexican consulate that was a part of the TDM was the key to having this case proceed so quickly and smoothly.
- In a Southern CA county, they were able to use all county funds to pay airfare for a mother to pick up the child and bring them home.
- In a Northern CA county, the agency is working with a 14-year-old child from Guatemala involved in prostitution. The army had killed one of the parents and the community-based agency did not want to contact the consulate for fear of the dangers to the child if he was deported. In some countries, there are real fears from the family about contacting the consulates.
- The child should be allowed to participate in TDMs if they are mature enough, such as 14-15 year olds.
- Most counties do not allow attorneys present at TDMs. However having immigration consultants at the meetings are helpful. Ken discussed the need to sometimes stop a TDM or postpone it by a week if there is a need to contact an immigration attorney or the foreign consulate. In a rural Northern CA county, they stopped the TDM and got the Mexican consulate on the phone when it was discovered the family were undocumented. The TDM took longer and there was follow up work with the family. The infant was placed in voluntary foster care, which took place before they filed petition. The key to the placement with the grandmother was early identification in TDM placement. The case could have easily gone a different direction if there was a petition filed and the child was placed in foster care. The parent could have fled or been convicted and the grandparent would have been never identified.

- In a Southern CA county, investigators are considered the experts on immigrations while ER workers are the one attending TDMs and may not be as familiar regarding the issues.
- The Mexican consulates are receiving different marching orders now, especially in CA and Illinois, to work closely with us to return Mexican children to their family.

SCENARIO TWO:

2a. In a TDM, Mrs. Frank has agreed to move in with her sister's family in order to provide a protective setting for her US-born 12-year old daughter and herself. Mrs. Frank's husband Ed is currently under investigation by the police for dealing in Meth. In addition, there is a history of domestic violence and Mr. Frank was convicted last year of assault against his wife. His daughter was injured during the last conflict, hit by a flying object. At the TDM, it was disclosed that Mr. Frank is a US Citizen and is petitioning for his wife who is from Vancouver, Canada. Mrs. Frank wants to provide a safe place for herself and her daughter but fears the separation will lead to Mr. Frank not following through with the immigration petition and losing her opportunity to gain permanent residency status. Mr. Frank is not at the TDM. What are some of the issues that need to be reviewed in order to help Mrs. Frank with the child safety plan?

2b. If Mrs. Frank noted she was undocumented, what advice would you offer her?

- Ken developed this scenario to illustrate how in cases of domestic violence, the issue of power and control has much to do with who in the relationship has legal documentation and who is dependent on the sponsorship. If the green card holder is the husband, the spouse has a conditional card, which is good for two years, but they need the spouse's sponsorship.
- While Violence Against Women Act (VAWA) petitions are not automatic, it can lead to residency for the spouse and children. Credible evidence of abuse must be provided but that doesn't necessarily mean a police record. For example, a petition is filed on a DV incident. The case may show that A count is against the father and the B count is against mother for a failure to protect the children. Thus, will this matter be held against her in her VAWA petition?
- Many child welfare agencies have partnerships with nonprofits like Catholic Charities who will assist them with VAWA and other immigration cases.
- As in all DV cases, it is important to separate the perpetrator from the victim, but there is a need to gather immigration information from the perpetrator.
- If the victim has the courage to help with the prosecution of criminal action against the perpetrator, they can apply for a U Visa (but for only certain crimes such as drug trafficking).

SCENARIO THREE:

3a. Carla Macias is a 16-year old teenager from Mexico. She is undocumented. Her father is dead and her mother is in jail with a 10-year sentence. You need to find a permanent placement for Carla and the foster parents may be interested in adoption or guardianship but are very concerned about the commitment given her immigration status. They will agree to keep her until she is 18 in permanent placement but this is not the preferred goal for Carla. What are some of the issues that would need to be discussed at the TDM?

3b. Although the foster parents love Carla, they have decided to make a commitment to her in long-term foster care only. Carla's uncle is also interested in providing guardianship for her, but his wife is in the process of resolving her immigration status as well. They are at the TDM. What are some of the points that should be covered at the TDM, and how should the immigration issues be integrated into the discussion so that Carla's best interests are addressed?

- Scenario 3 shows the importance of having ILP integrated with immigration services and that ILP must know about SIJS.
- It is important to have immigration specialists who understand these issues since most line workers do not.
- Permanency for children with immigration problems raise the need for focused, specialized services and resources, including knowledge of SIJS, derivative US citizenship², and other forms of immigration relief.

²Derivative citizenship refers to certain persons born outside of the US who may acquire US citizenship at birth where one or both of the parents are US citizens.